

Senator Todd Weiler proposes the following substitute bill:

SCHOOL DISTRICT PROCUREMENT PROCESS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies advertising requirements for a school construction project.

Highlighted Provisions:

This bill:

- ▶ modifies local school board advertising requirements related to a school construction project; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-20-101, as last amended by Laws of Utah 2012, Chapters 86 and 347

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-20-101** is amended to read:

53A-20-101. Construction and alteration of schools and plants -- Advertising for



26 **bids -- Payment and performance bonds -- Contracts -- Bidding limitations on local**
27 **school boards -- Interest of local school board members.**

28 (1) As used in this section, the word "sealed" does not preclude acceptance of
29 electronically sealed and submitted bids or proposals in addition to bids or proposals manually
30 sealed and submitted.

31 (2) (a) Prior to the construction of any school or the alteration of any existing school
32 plant, if the total estimated accumulative building project cost exceeds \$80,000, a local school
33 board shall advertise for bids on the project at least 10 days before the bid due date.

34 ~~[(b) The board shall have the advertisement published in a newspaper having general~~
35 ~~circulation throughout the state and in appropriate construction trade publications that offer free~~
36 ~~listings.]~~

37 ~~[(c) A similar advertisement is required in a newspaper published or having general~~
38 ~~circulation in any city or county that would be affected by the proposed project.]~~

39 ~~[(d)]~~ (b) The advertisement shall state:

40 (i) ~~[require sealed proposals for the building project]~~ that proposals for the building
41 project are required to be sealed in accordance with plans and specifications ~~[furnished]~~
42 provided by the local school board;

43 (ii) ~~[state]~~ where and when the proposals will be opened ~~[and shall reserve the right of~~
44 ~~the board];~~

45 (iii) that the local school board reserves the right to reject any and all proposals; and

46 ~~[(iii)]~~ (iv) ~~[require a]~~ that a person that submits a proposal is required to submit a
47 certified check or bid bond, of not less than 5% of the bid in the proposal, to accompany the
48 [bid] proposal.

49 (c) The local school board shall publish the advertisement, at a minimum:

50 (i) on the local school board's website; or

51 (ii) on a state website that is:

52 (A) owned or managed by, or provided under contract with, the Division of Purchasing
53 and General Services; and

54 (B) available for the posting of public procurement notices.

55 (3) (a) The board shall meet at the time and place specified in the advertisement and
56 publicly open and read all received proposals.

57 (b) If satisfactory bids are received, the board shall award the contract to the lowest
58 responsible bidder.

59 (c) If none of the proposals are satisfactory, all shall be rejected.

60 (d) The board shall again advertise in the manner provided in this section.

61 (e) If, after advertising a second time no satisfactory bid is received, the board may
62 proceed under its own direction with the required project.

63 (4) (a) The check or bond required under Subsection (2)~~(f)~~(b) shall be drawn in favor
64 of the local school board.

65 (b) If the successful bidder fails or refuses to enter into the contract and furnish the
66 additional bonds required under this section, then the bidder's check or bond is forfeited to the
67 district.

68 (5) A local school board shall require payment and performance bonds of the successful
69 bidder as required in Section [63G-6a-1103](#).

70 (6) (a) A local school board may require in the proposed contract that up to 5% of the
71 contract price be withheld until the project is completed and accepted by the board.

72 (b) If money is withheld, the board shall place it in an interest bearing account, and the
73 interest accrues for the benefit of the contractor and subcontractors.

74 (c) This money shall be paid upon completion of the project and acceptance by the
75 board.

76 (7) (a) A local school board may not bid on projects within the district if the total
77 accumulative estimated cost exceeds \$80,000.

78 (b) The board may use its resources if no satisfactory bids are received under this
79 section.

80 (8) If the local school board determines in accordance with Section [63G-6a-1302](#) to use
81 a construction manager/general contractor as its method of construction contracting
82 management on projects where the total estimated accumulative cost exceeds \$80,000, it shall
83 select the construction manager/general contractor in accordance with the requirements of Title
84 63G, Chapter 6a, Utah Procurement Code.

85 (9) A local school board member may not have a direct or indirect financial interest in
86 the construction project contract.